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7 **UNITED STATES DISTRICT COURT**  
8 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

9 **TAMIKA MCLEMORE**, individually and on  
behalf of all others similarly situated,

10 *Plaintiff,*

11 v.

12 **TEXTMUNICATION, INC.**, a California  
13 corporation

14 *Defendant.*

Case No. 3:17-cv-02180-WHO

15  
16 **NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE**

17  
18 PLEASE TAKE NOTICE that Plaintiff Tamika McLemore (“McLemore” or “Plaintiff”)  
19 dismisses this lawsuit against Defendant Textmunication, Inc. without prejudice.

20 Federal Rule of Civil Procedure 41(a)(1) provides, in relevant part:

21 (a) Voluntary Dismissal.

22 **(1) By the Plaintiff.**

23 (A) *Without a Court Order.* Subject to Rules 23(e), 23.1(c), 23.2 and 66 and any  
24 applicable federal statute, the plaintiff may dismiss an action without a court order by  
25 filing:

26 (i) a notice of dismissal before the opposing party serves either an answer or a  
27 motion for summary judgment; or

28 (ii) a stipulation of dismissal signed by all parties who have appeared.

(B) *Effect*. Unless the notice or stipulation states otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any federal- or state-court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.

In this case, Defendant has neither answered Plaintiff's Complaint nor served a motion for summary judgment. In addition, no class has been certified in this matter so Rule 23's exceptions do not apply. Likewise, this case does not involve any Receiver so as to implicate Rule 66.

Accordingly, Plaintiff hereby dismisses these proceedings in accordance with Rule 41(a)(1)(i) without prejudice.

Respectfully Submitted,

**TAMIKA MCLEMORE**, individually and on  
behalf of Classes of similarly situated individuals

Dated: August 9, 2017

By: /s/ Patrick H. Peluso  
One of Plaintiff's Attorneys

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